CHAPTER NO. 495

SENATE BILL NO. 1879

By Herron, Black, Burks

Substituted for: House Bill No. 105

By McDonald

AN ACT to amend Tennessee Code Annotated, Title 68, Chapter 221, Part 4, relative to subsurface sewage disposal systems.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 68-221-409, is amended by deleting the present language in its entirety and by substituting instead the following language:

(a) Any person proposing to construct, alter, extend or repair subsurface sewage disposal systems and/or engage in the business of removing accumulated wastes from such systems shall secure a permit from the commissioner in accordance with the provisions of this part and rules and regulations promulgated pursuant to the provisions of this part. The department shall review its list of approved soil consultants at least annually to ensure compliance with applicable requirements including the bond requirement of subsection (b) and may promulgate rules setting forth the process for such review and an annual fee sufficient to cover the costs involved.

(b) To be eligible for approval by the department pursuant to this part as a soil consultant or a soil scientist, or a person who may perform a percolation test, or for a permit as an installer of subsurface sewage disposal systems, any person shall file with the commissioner a performance bond or an irrevocable letter of credit in the amount of thirty thousand dollars ($30,000) for the benefit of any person who hires the soil consultant, soil scientist, percolation tester or installer and is damaged because of any negligence or fraud by the soil consultant, soil scientist, percolation tester or installer. Any person so damaged may sue directly on the bond without assignment thereof. Liability under any such bond may not exceed in the aggregate the amount of the bond. If the bond ceases to be in effect, the approval of the soil consultant or the percolation tester or the permit of the installer shall become null and void, subject to reinstatement if a new bond is provided.

(c) Licensed professionals shall be exempt from the provisions of subsection (b) upon proof to the Department of Conservation and Environment that the professional is in possession of valid errors and omissions insurance.

(d) An installer of subsurface sewage disposal systems shall only be subject to the provisions of subsection (b) if the permit of such installer is suspended or revoked after the effective date of this act or if the department denies an application for renewal of a permit after the effective date of this act and the permit is later reinstated or the installer is later issued a new permit.

SECTION 2. The provisions of this act shall not apply in counties having a population, according to the 2000 federal census or any subsequent federal census of:

not less than	nor more than
20,600	20,700
29,800	29,900
38,900	39,000
39,050	39,105
44,200	44,300
48,125	48,200
71,100	71,200

105,800	105,900
28,800	28,900
39,050	39,150
51,900	52,000
7,975	8,025
10,900	11,000
4,900	5,000
21,100	21,200
16,600	16,700
19,500	19,775
20,100	20,200

SECTION 3. The Department of Environment and Conservation is hereby authorized to promulgate rules and regulations in accordance with the provisions of this act. All such rules and regulations shall be promulgated in accordance with the provisions of the Uniform Administrative Procedures Act, compiled in chapter 5 of this act.

SECTION 4. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 5. This act shall take effect January 1, 2006, the public welfare requiring it.

PASSED: May 28, 2005

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JOHN S. WILDER
SPEAKER OF THE SENATE

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JIMMY NAIFEH, *SPEAKER*
HOUSE OF REPRESENTATIVES

APPROVED this 22nd day of June 2005

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PHIL BREDESEN, GOVERNOR